



CITY OF LODI

COUNCIL COMMUNICATION

AGENDA TITLE: Introduction of Ordinance Repealing Ordinance 1713 which Approved and Adopted the Redevelopment Plan for the Lodi Redevelopment Project No. 1

MEETING DATE: September 4, 2002

SUBMITTED BY: Randall A. Hays, City Attorney

RECOMMENDED ACTION: That the City Council introduce an Ordinance repealing Ordinance No. 1713 and begin the process to adopt another Ordinance implementing a Redevelopment Plan that does not contain the power of eminent domain.

BACKGROUND INFORMATION: The City Council adopted Ordinance No. 1713 which established the Redevelopment Plan for Lodi Redevelopment Project No. 1. Subsequent to that adoption a referendum petition was circulated.

That petition has been certified as containing enough valid signatures to suspend the effective date of Ordinance No. 1713. The City Council must now consider either repealing Ordinance No. 1713 or submitting the Ordinance to the voters. This is required by California Elections Code §9241.

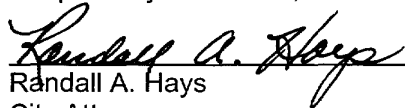
At first glance it would appear that the City Council has only two options. Such is not the case however. A third option is to adopt another Ordinance following the repeal of Ordinance No. 1713. This option is allowed if the successor Ordinance differs in an essential way from the repealed Ordinance.

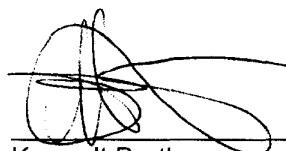
The existence of this option has been confirmed with Redevelopment Special Counsel, David Beatty, as well as a case involving the City of Sausalito titled Reagan v. City of Sausalito (1962) 26 Cal. Rptr. 775, 210 Cal. App. 2d 618; and a case titled Martin v. Smith (1959) 1 Cal. Rptr. 307, 176 Cal. App. 2d 115.

Based upon the above, it is the recommendation of staff that the City Council repeal Ordinance No. 1713 and direct staff to begin the process to put in place another Redevelopment Plan Ordinance that does not contain the power of eminent domain. This process would basically result in the program regressing to the point of presentation of the Ordinance/Plan to the Project Area Committee to be moved up the ladder to the Planning Commission and the City Council. This process will again provide notices to all property owners as well as opportunities for the public in general to be heard publicly on the Plan document. Staff is ready to begin this process immediately.


FUNDING: None

Respectfully Submitted,


Randall A. Hays
City Attorney


Konrad Bartlam
Community Development Director

APPROVED: _____


H. Dixon Flynn -- City Manager

DRAFT

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LODI
REPEALING ORDINANCE NO 1713 RELATING TO THE ADOPTION
OF THE REDEVELOPMENT PLAN FOR THE LODI
REDEVELOPMENT PROJECT NO. 1

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BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LODI AS FOLLOWS:

SECTION 1. That Ordinance 1713 adopted by the City Council of the City of Lodi on July 3, 2002, is repealed in its entirety.

SECTION 2. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

SECTION 3. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

SECTION 4. Severability. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application. To this end, the provisions of this ordinance are severable. The City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof.

SECTION 5. This ordinance shall be published one time in the "Lodi News Sentinel", a daily newspaper of general circulation printed and published in the City of Lodi and shall take effect thirty days from and after its passage and approval.

Approved this ____ day of _____, 2002

PHILLIP A. PENNINO
Mayor

Attest:

SUSAN J. BLACKSTON
City Clerk

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State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. _____ was introduced at a regular meeting of the City Council of the City of Lodi held September 4, 2002, and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held _____, 2002, by the following vote:

AYES: COUNCIL MEMBERS –

NOES; COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. _____ was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON
City Clerk

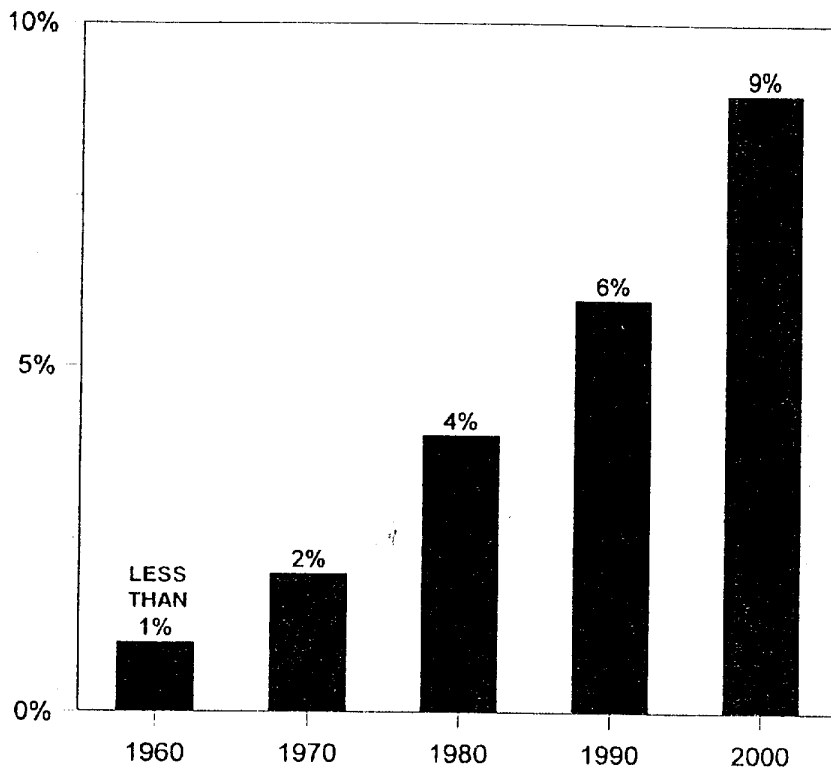
Approved as to Form:

RANDALL A. HAYS
City Attorney

*filed 9-4-02
J. Talbot*

TABLE 3.1

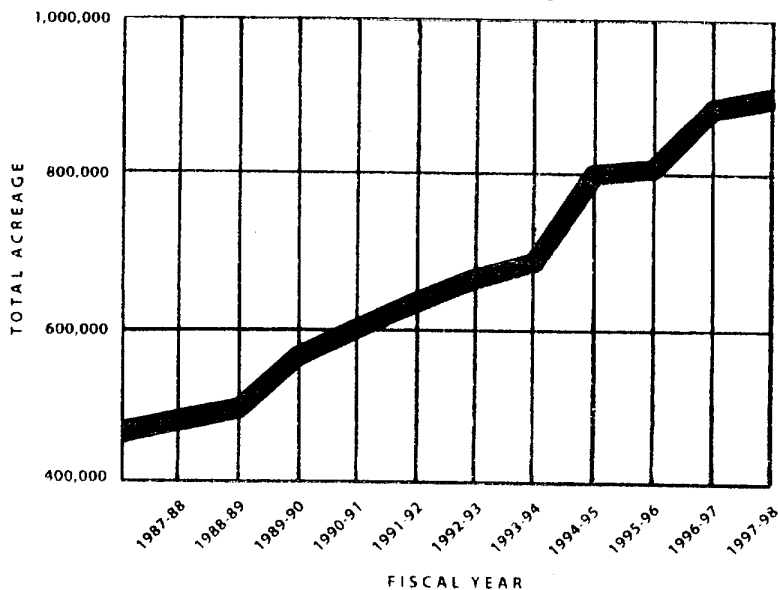
**Property Tax Increment as a Percentage
of Total Property Tax Revenues Statewide
(Percent of Property Taxes Diverted to Redevelopment)**



SOURCE: California State Controller's Office.

TABLE 3.2

Total Acreage in Redevelopment Areas



SOURCE: Report of the Commission on Local Governance for the 21st Century, page 112.